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Attorneys for Defendant GILA LLC
dba MUNICIPAL SERVICES BUREAU

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Reed Sailola,

Plaintiff,

vs.

GILA LLC, d/b/a Municipal Services
Bureau,

Defendants.

) Case No. CV 13-00544 HG-RLP
)
) **DEFENDANT'S SUBMISSION IN**
) **SUPPORT OF FEE AWARD IN**
) **THE COURT'S DECEMBER 18,**
) **2014 ORDER** (DKT. NO. 110);
) DECLARATION OF GLENN T.
) MELCHINGER; EXHIBITS "1"
) THROUGH "4"; CERTIFICATE
) OF SERVICE
)
) (Dkt. No. 110, 107, 81)
)
) **TRIAL DATE:** May 5, 2015
) **JUDGE:** Honorable Helen Gillmor

**DEFENDANT'S SUBMISSION IN SUPPORT OF FEE AWARD
IN THE COURT'S DECEMBER 18, 2014 ORDER**

Defendant GILA LLC *dba* MUNICIPAL SERVICES BUREAU

("MSB") respectfully makes this submission pursuant to the *Order Granting Defendant Municipal Services Bureau's Motion for Protective Order Re Plaintiff's Request for a Rule 34 Inspection and 30(b)(6) Deposition Notice*, Dkt. No. 110, filed on December 18, 2014, for reimbursement of attorney fees incurred in relation to Defendant's Motion for Protective Order Re Plaintiff's Request for Rule 34 Inspection and 30(b)(6) Deposition Notice, filed November 14, 2014 (the "**Motion**") [Dkt. 81] and for preparing MSB's reply [Dkt. No. 107].

I. Explanation of Fees Incurred Related to Docket 81.

The time and attorneys' fees incurred by Alston Hunt Floyd & Ing ("AHFI") in relation to MSB's Motion for protective order are set out in Exhibit "1" to the Declaration of Glenn T. Melchinger, filed contemporaneously herewith.

In October, 2014, MSB's former counsel, Mr. David Minkin, began to prepare a motion for protective order in response to Plaintiff's Rule 34 Requests for Inspection of MSB's headquarters. When the case was transferred to AHFI in early November, 2014, AHFI received a draft copy of a motion for protective order in Word (which was used as a base for the Motion (Dkt. No. 81)), filed on November 14, 2014 after the parties' meet and confer. The attorneys' fees related

to the McCorriston firm's initial rough draft of the Motion, are attached hereto as Exhibit "4."

On November 7, 2014, AHFI appeared as counsel for MSB and requested a meet and confer with Plaintiff regarding the request for inspection and the deposition notice. Dkt. No. 81-5 at 4.

On November 13, 2014 counsel met and conferred regarding the Rule 34 inspection request and the topics in the 30(b)(6) Deposition Notice, among other things. On November 14, 2014, MSB prepared the Motion and filed it that evening. Dkt. No. 81.

On November 18, 2014, counsel submitted letter briefs to the Court regarding the alleged need for an immediate inspection of MSB's facilities while Plaintiff's counsel was in Austin, Texas. Dkt. Nos. 87, 107-3. Some of the work for the Motion was done on November 18, 2014 in relation to MSB's letter brief—specifically, the investigation and discussion of factual support for the letter brief with the client regarding the burden that an inspection would place on MSB (whether conducted "after hours," as Plaintiff's counsel suggested on or about November 18, 2014, or during operations).¹ That prior investigation and discus-

¹ On November 20, 2014, the Court denied Plaintiff's request for immediate Rule 34 inspection of MSB's premises. Dkt. No. 87. Plaintiff argued again that he sought to accommodate MSB with an "after hours" inspection in the November 28,
(continued...)

sion was used in drafting the reply memorandum in support of the Motion to prevent the Rule 34 inspection. Dkt. No. 107-1 at ¶¶ 2-3.

Thus, Exhibit "1" includes an entry for certain time incurred on November 18, 2014 related to MSB's letter brief, as that work would have to have been performed in preparing MSB's reply in any event. MSB submits it is proper that MSB be able to recover for the work that was actually used in preparing the December 12, 2014 reply, although it was performed in November 18, 2014 in defending against Plaintiff's letter brief request for an *immediate* Rule 34 inspection of MSB's Austin headquarters.

A. Explanation of Exhibits And Amounts Sought Herein

Attached hereto as Exhibit "1" to the Declaration of Glenn T. Melchinger is a list of AHFI fee descriptions related to preparing and briefing the Motion. AHFI incurred fees in the amount of \$6,680.50 (not including GET).

MSB also seeks \$1,961.00 (not including GET) for 10.4 hours of paralegal time, and 4.2 hours of attorney time, (which does not include all the time incurred) in relation to preparing this Submission. MSB respectfully submits that the preparation of this Submission should not, in essence, reduce the Court's fee award related to the Motion.

(...continued)

2014 opposition (Dkt. No. 91 at 4)—the same argument made in Plaintiff's letter brief of November 18, 2014.

The grand total for AHFI's fees, with GET in the amount of \$407.19, is \$9,048.69.

MSB also seeks the fees of David Minkin's firm related to preparing the initial rough draft on which the Motion was based. *See* Melchinger Decl. at Ex. "4." The total fees incurred by McCorriston Miller Mukai MacKinnon LLP ("M4") by David Minkin and his associates related to work performed on an initial draft of the Motion totals \$1,610.70, plus general excise tax in the amount of \$75.86, for a grand total of \$1,686.56. *See* Declaration of David J. Minkin, attached hereto as Exhibit "4" to the Declaration of Glenn T. Melchinger.

II. CONCLUSION

For the reasons set forth above, Defendant requests that this Court approve MSB's request for \$10,735.25 total in fees and get related to the Motion and preparing this Submission.

Dated: Honolulu, Hawai'i on December 29, 2014.

/s/ Glenn T. Melchinger
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